

Banking, Commerce and Insurance Committee

**One Hundred Fourth Legislature
Second Session – 2016**

SUMMARY OF 2016 LEGISLATION

Committee Members

**Senator Jim Scheer, Chairperson
Senator Matt Williams, Vice Chairperson
Senator Kathy Campbell
Senator Joni Craighead
Senator Nicole Fox
Senator Mike Gloor
Senator Brett Lindstrom
Senator Paul Schumacher**

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Janice Foster, Committee Clerk**

MEMORANDUM

TO: Members of the Legislature and
Other Interested Persons

FROM: Senator Jim Scheer, Chairman
Banking, Commerce and Insurance Committee

DATE: June 6, 2016

RE: Summary of 2016 Session Legislation

I am pleased to present, for your reference, the following summary of the provisions and disposition of all carried-over 2015 and 2016 bills referenced to and considered by the Banking, Commerce and Insurance Committee.

I hope you find this summary helpful as you review our work as of the conclusion of the 2016 session. If you have questions or need additional information, please contact me or our committee staff: Bill Marienau, Legal Counsel or Janice Foster, Committee Clerk.

TABLE OF CONTENTS

LEGISLATIVE BILLS.....PAGE

ACCOUNTANTS

LB853 (Stinner) Change provisions relating to the Public Accountancy Act.....1

LB1025 (Morfeld) Change experience requirements under the Public Accountancy Act.....1

APPRAISERS

LB729e (Johnson) Change provisions of Real Property Appraiser Act.....2

LB731e (Johnson) Change provisions relating to the Real Property Appraiser Act.....2

BANKING AND FINANCE

LB676e (Craighead) Revise powers of state-chartered banks, building and loan associations, and credit unions.....5

LB751e (Lindstrom) Provide that payment of certain expenses is not a condition precedent to certain approvals by the Director of Banking and Finance and change certain notice provisions..5

LB788 (Williams) Change provisions relating to the Nebraska Money Transmitters Act and the Nebraska Installment Sales Act.....6

LB1036 (Campbell) Change provisions of the Credit Services Organizations Act, the Delayed Deposit Services Licensing Act, and the Nebraska Installment Loan Act.....7

BONDS

LB67 (Schumacher) Provide for governmental unit bond priority.....12

BUSINESS ENTITIES

LB794 (B. Harr) Change provisions relating to the Nebraska Model Business Corporation Act and corporate occupation taxes.....13

LB1050 (B. Harr) Authorize conversion of domestic partnerships and domestic limited liability partnerships into domestic limited companies or foreign limited liability companies.....14

CONDOMINIUMS

LB336 (B. Harr) Change provisions relating to the Nebraska Condominium Act.....15

LB1020 (Fox) Provide for amendments to declarations to correct scrivener's errors, omissions, or errors in the declaration under the Nebraska Condominium Act.....15

LEGISLATIVE BILLS.....PAGE

LB1096 (B. Harr) Change provisions relating to amendments to declarations regarding unit boundaries under the Nebraska Condominium Act.....16

CONSUMER RENTAL PURCHASES

LB761 (Scheer) Change and update certain federal references in the Consumer Rental Purchase Agreement Act.....17

DIRECT PRIMARY CARE

LB817 (Riepe) Adopt the Direct Primary Care Agreement Act.....18

ECONOMIC DEVELOPMENT

LB395 (Schilz) Adopt the Nebraska Enterprise Act and authorize grants for economic development.....20

ELECTRIC PAYMENT TRANSACTIONS

LB193 (Nordquist) Prohibit the collection of interchange fees on specified taxes and provide penalties.....22

LB760 (Scheer) Update certain references to the federal Electronic Fund Transfer Act.....22

FRANCHISE AGREEMENTS

LB942e (Scheer) Require disclosure of noncompete agreements by sellers of seller-assisted marketing plans and provide for reformation of a franchise agreement which unreasonably restrains competition.....24

INSURANCE

LB11 (Krist) Change participation and reimbursement provisions under the Managed Care Plan Network Adequacy Act.....25

LB48 (Scheer) Change unfair insurance trade practices relating to casualty losses.....25

LB51 (Scheer) Require disclosures prior to joining a risk management pool under the Intergovernmental Risk Management Act.....26

LB78 (Gloor) Change provisions relating to the public agencies authorized to enter into agreements under the Intergovernmental Risk Management Act.....26

LB79 (Gloor) Require insurance coverage for renewals of prescription eye drops.....26

LB124 (Nordquist) Provide requirements relating to copayments, coinsurance, and deductibles.....27

LB234 (Krist) Change provisions relating to filing requirements of insurance companies.....27

LEGISLATIVE BILLS.....PAGE

LB341 (Howard) Provide requirements relating to health benefit plan coverage for insureds in jail custody.....27

LB451 (Hansen) Change and eliminate provisions relating to stacking of insurance coverage...28

LB488 (Scheer) Adopt the Transportation Network Insurance Act.....28

LB531 (Kolterman) Provide requirements for publication of insurance information.....29

LB553 (Gloor) Change insurance provisions relating to dental services.....30

LB628 (Schilz) Provide for electronic posting of property and casualty insurance policies and notices related to such policies.....31

LB632 (Scheer) Prohibit employers and associations from precluding certain contracts relating to health benefit plans.....31

LB706 (Coash) Define habilitative services for purposes of insurance.....32

LB740 (Hansen) Add an unfair claims settlement practice under the Unfair Insurance Claims Settlement Practices Act.....32

LB758 (Scheer) Prohibit limited liability companies from operating as insurers.....32

LB770e (Groene) Change the termination date of the Nebraska Exchange Transparency Act and the terms of certain members of the Nebraska Exchange Stakeholder Commission.....33

LB770Ae (Groene) Appropriations Bill.....33

LB772e (Schumacher) Adopt the Corporate Governance Annual Disclosure Act and change provisions relating to insurance holding companies and risk retention groups.....33

LB796 (B. Harr) Prohibit alterations to liability insurance coverage for claims under the Minor Alcoholic Liquor Liability Act.....36

LB801 (Bolz) Require educational material and a report relating to long-term care insurance...36

LB819 (Lindstrom) Adopt the Corporate Governance Annual Disclosure Act.....36

LB837 (Scheer) Change provisions relating to premium taxes and quarterly statements under the Surplus Lines Insurance Act.....37

LB840 (Fox) Change provisions relating to the time allowed for certain internal grievance under the Health Carrier External Review Act.....37

LEGISLATIVE BILLS.....PAGE

LB1041 (Cook) Provide for disapproval of certain insurance rate filings if they use price optimization.....38

LB1060 (Fox) Adopt the Pharmacy Benefit Fairness and Transparency Act and provide duties for the Director of Insurance.....38

LIENS

LB1035 (Williams) Redefine farm product and change provisions relating to the central filing system and the master lien list.....42

REAL ESTATE

LB678 (Craighead) Change provisions of the Nebraska Real Estate License Act.....43

RESIDENTIAL CONTRACTORS

LB223 (B. Harr) Change provisions of the Insured Homeowners Protection Act relating to contractor duties and prohibited acts and provide for a required notice.....44

LB856 (B. Harr) Change the Insured Homeowners Protection Act.....45

SECURITIES

LB771 (Lindstrom) Change provisions under the Securities Act of Nebraska relating to registration by coordination and federal covered securities.....46

SOCIAL SECURITY NUMBERS

LB115 (Scheer) Prohibit certain actions related to social security numbers.....47

UNCLAIMED PROPERTY

LB873 (Murante) Authorize escheatment to the state of unclaimed United States Savings Bonds as prescribed.....48

UNIFORM COMMERCIAL CODE

LB759e (Scheer) Change provisions relating to stop-payment orders.....49

MISCELLANEOUS

List of Interim Study Resolutions.....50

List of Interim Study Priorities.....51

Interim Study Resolutions as introduced

ACCOUNTANTS

LB853 (Stinner) Change provisions relating to the Public Accountancy Act (2016)

Enacted

Effective July 21, 2016

This bill, introduced at the request of the Nebraska State Board of Public Accountancy, amends the Public Accountancy Act in three areas:

The bill amends section 1-113 to provide that the advisory committee the board is required by the act to appoint shall meet “at the direction of the board” rather than “at least annually.”

The bill amends sections 1-118, 1-119, and 1-121 to strike outdated provisions regarding examinations in order to facilitate examinations being conducted electronically.

The bill amends sections 1-136.02 and 1-136.04 to provide that experience satisfactory for issuance of a permit may include experience in a foreign country as well in any state.

The bill passed 47-0-2 on February 18, 2016 and was approved by the Governor on February 24, 2016.

LB1025 (Morfeld) Change experience requirements under the Public Accountancy Act (2016)

Left in Committee

This bill would amend section 1-136.02 of the Public Accountancy Act to provide that the Nebraska State Board of Public Accountancy shall issue a permit to a certificate holder who has, among other things, “two” years rather than “three” years experience in employment as an accountant in “government” under the supervision of an active certified public accountant.

APPRAISERS

LB729e (Johnson) Change provisions of the Real Property Appraiser Act (2016)

Enacted

Effective March 10, 2016

This bill amends section 76-2221 of the Real Property Appraiser Act to provide that the act does not apply to a person, including an independent contractor, retained by a county to assist and be under the direction of a county assessor in the mass appraisal of real property for taxation purposes.

The bill also outright repeals section 76-2251 of the Real Property Appraiser Act which had provided for a one-year moratorium, beginning August 30, 2015, on enforcement action by the Real Property Appraiser Board involving mass appraisals conducted under the authority of a county assessor by employees or independent contractors.

The bill passed 48-0-1 with the emergency clause on March 3, 2016 and was approved by the Governor on March 9, 2016.

LB731e (Johnson) Change provisions relating to the Real Property Appraiser Act (2016)

Enacted

Effective April 7, 2016

This bill updates the Real Property Appraiser Act for compliance with Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, the Real Property Appraiser Qualification Criteria effective January 1, 2015, the Uniform Standards of Professional Appraisal Practice (USPAP), and the Policy Statements of the Appraisal Subcommittee of the Federal Financial Institutions Examination Council. Title XI requires each state to prescribe appropriate standards for the performance of real estate appraisals in connection with federally related transactions. In addition, real estate appraisals are to be performed in accordance with generally accepted uniform appraisal standards, and are to be performed by an individual whose competency has been demonstrated, and whose professional conduct is subject to effective state supervision. If the State of Nebraska is found to not be compliance with Title XI by the Appraisal Subcommittee, the Appraisal Subcommittee may remove all Nebraska credentialed appraisers from the Federal Registry, resulting in no appraisers being qualified to appraise real property in connection with federally related transactions, which is approximately 80 percent of all mortgage loan activity. Along with the changes required by the Appraisal Subcommittee, USPAP, the 2015 Criteria, and the ASC Policy Statements, the bill also includes minor changes to address administration of the act.

The following changes to the act are included in the bill:

In section 76-2202, the reference to the Dodd-Frank Wall Street Reform and Consumer Protection Act is updated to mean the act as it existed on January 1, 2016.

The references to USPAP throughout the bill are updated in section 76-2218.02 to mean the standards promulgated by the Appraisal Foundation as they existed on January 1, 2016.

In sections 76-2207.13 and 76-2236, the reference to the date of course approval by the Appraiser Qualifications Board of The Appraisal Foundation for the 15-Hour, and 7-Hour, National Uniform Standards of Professional Appraisal Practice course is updated to January 1, 2016.

In section 76-2207.14, the definition of the federal “Financial Institutions Reform, Recovery, and Enforcement Act of 1989” is updated to mean the act as it existed on January 1, 2016.

In section 76-2217.03, the definition of “signature” is modified to include the language “and compliance with the Uniform Standards of Professional Appraisal Practice” to further clarify the responsibility accepted by signing a report.

Section 76-2221(1) is modified to clarify that only a credentialed real property appraiser who is a salaried employee of the entities defined in subdivision (a) through (d) of this subsection, who does not sign a report as a credentialed real property appraiser, shall include the disclosure: “This opinion of value may not meet the minimum standards contained in the Uniform Standards of Professional Appraisal Practice and is not governed by the Real Property Appraiser Act.” It had appeared that this provision could apply to all salaried employees, regardless of one’s status as a credentialed real property appraiser.

A clarification is added in section 76-2221 for any person appointed to serve as an appraiser pursuant to section 76-706. If such person is a credential holder, he or she shall be subject to the scope of practice for his or her credential, and shall comply with certain requirements of USPAP.

The language in section 76-2222(1) regarding the membership of the Real Property Appraiser Board is updated to provide that of the three certified real property appraisers appointed one from each congressional district, two no longer must be certified general real property appraisers.

The language in section 76-2227(1), (2), and (3) is updated to include all types of credentials. This change is made to allow for the background requirements currently found in sections 76-2227.01 to 76-2233 to be consolidated in section 76-2227.

The background requirements currently found in sections 76-2227.01 to 76-2233 for an initial, upgrading, and renewal of credential are consolidated in section 76-2227 to eliminate duplication under each section. Prior to this bill, the same language existed in each credential section. In addition, language is added to establish that an applicant or a credential holder must not possess a background that would call into question public trust or his or her fitness for credentialing. This addition is to satisfy the requirements of the newly added Guide Note 9 in the 2015 Criteria.

The course completion time requirements, and the final exam requirements, are removed for the Real Property Associate in section 76-2227.01. This will result in qualifications that better align with the purpose of this credential.

In its June 19, 2015 ASC Compliance Review Report, the Appraisal Subcommittee stated, “All Trainee QE must be completed within the 5-year period prior to the date of submission of a Trainee appraiser application.” It was the Appraisal Subcommittee’s position that the act did not appropriately define this time requirement. Section 76-2228.01(1)(c)(i) is updated to clarify that this course shall be completed within two years preceding the submission of the application, which strengthens the existing language found in the act (the current requirement is two years).

Due to the burden placed on reciprocal credential holders, the 7-Hour Report Writing Update Course required every four years for renewal of a credential is changed to a report writing course of “at least” seven hours in section 76-2236(4).

Language is updated in section 76-2238(20) and (21) to state, “issued by another regulatory agency,” instead of “held by another regulatory agency.” This corrected language that had been grammatically incorrect.

The language “For a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser” concerning the inactive credential application fee is removed from section 76-2241(1)(g) to be consistent with section 76-2241(1)(h), which includes the inactive credentialing fee.

The bill passed 47-0-2 with the emergency clause on March 31, 2016 and was approved by the Governor on April 6, 2016.

BANKING AND FINANCE

LB676e (Craighead) Revise powers of state-chartered banks, building and loan associations, and credit unions (2016)

Enacted

Effective March 10, 2016

This bill, introduced at the request of the Director of Banking and Finance, amends provisions relating to powers of state-chartered financial institutions.

The bill amends section 8-1,140 of the Nebraska Banking Act, section 8-355 of the state-chartered savings and loan association statutes, and section 21-17,115 of the Nebraska Credit Union Act to provide that state-chartered banks, savings and loan associations, and credit unions shall have all the rights, powers, privileges, benefits, and immunities which may be exercised by their federal counterparts as of January 1, 2016 rather than January 1, 2015.

Due to state constitutional restrictions on delegation of legislative authority, these sections are amended annually.

The bill passed 45-0-4 with the emergency clause on March 3, 2016 and was approved by the Governor on March 9, 2016.

LB751e (Lindstrom) Provide that payment of certain expenses is not a condition precedent to certain approvals by the Director of Banking and Finance and change certain notice provisions (2016)

Enacted

Effective February 25, 2016

This bill amends: sections 8-115.01, 8-117, and 8-157 of the Nebraska Banking Act and section 8-1510, regarding applications to conduct, merge, or transfer a bank, applications for a conditional bank charter, applications to establish and maintain branches, and applications for cross-industry acquisition or merger; section 8-234 of the Nebraska Trust Company Act regarding applications to establish and maintain branches; section 8-374 of the savings and loan association statutes regarding applications for a stock savings and loan association charter; and section 21-1725.01 of the Credit Union Act regarding applications to establish a credit union or a branch to provide that payment by the applicant to the Department of Banking and Finance for the department's expenses for publication of notice and mailing of notices to other financial institutions shall not be a condition precedent to approval by the Director of Banking and Finance.

The bill further amends sections 8-157 and 21-1725.01 to eliminate the requirement for the department to send notices to all financial institutions located within the county in which a bank or a credit union has made application to establish a branch.

The bill passed 46-0-3 with the emergency clause on February 18, 2016 and was approved by the Governor on February 24, 2016.

LB778 (Williams) Change provisions relating to the Nebraska Money Transmitters Act and the Nebraska Installment Sales Act (2016)

Enacted

Effective July 21, 2016

This bill, introduced at the request of the Department of Banking and Finance, amends the Nebraska Money Transmitters Act and the Nebraska Installment Sales Act. The bill provides, section by section, as follows:

Section 1 amends section 8-2701 of the Nebraska Money Transmitters Act to reflect the outright repeal of section 8-2748 which is provided for in section 9 of the bill.

Section 2 amends section 8-2734 of the Nebraska Money Transmitters Act to repeal obsolete language relating to transitional licensing periods and fees adopted when the money transmitter license application and renewal processes were moved to the Nationwide Mortgage Licensing System and Registry.

Section 3 amends section 45-334 of the Nebraska Installment Sales Act to provide for the assignment of new section 7 within the act.

Section 4 amends section 45-335 of the Nebraska Installment Sales Act, which is the definitional section of the act, to add a definition of “control” in new subdivision (22). A definition of “control” had been in section 45-346(8).

Section 5 amends section 45-346(5) of the Nebraska Installment Sales Act to remove obsolete language relating to transitional licensing periods and fees adopted when the installment sales license application and renewal processes were moved to the Nationwide Mortgage Licensing System and Registry. This section also amends section 45-346(8) by repealing the requirement that a new license application has to be filed if a change of control of a licensee is proposed. A revised definition of control is moved to section 4 of the bill, and a new change of control process is provided for in section 7 of the bill.

Section 6 amends section 45-348 of the Nebraska Installment Sales Act to repeal obsolete language relating to transitional licensing periods and fees adopted when the installment sales license application and renewal processes were moved to the Nationwide Mortgage Licensing System and Registry.

Section 7 enacts a new section in the Nebraska Installment Sales Act to provide for a new change of control approval process which requires the filing of a notice with the Department of Banking and Finance thirty days prior to the change of control. The department will be required to act on these filings within thirty days except in very limited circumstances. A \$150.00 fee and NMLS processing fees will be required. Prior law required the filing of an application for a new license, with a \$150.00 fee and NMLS processing fees. This section further provides the right to a hearing in accordance with the Administrative Procedure Act if the department denies the change of control request.

Section 8 provides for repealers of the amendatory sections.

Section 9 provides for the outright repeal of section 8-2748 of the Nebraska Money Transmitters Act which provided transitional rules for licenses originally issued under the former Nebraska Sale of Checks and Fund Transmission Act.

The bill passed 48-0-1 on March 3, 2016 and was approved by the Governor on March 9, 2016.

LB1036 (Campbell) Change provisions of the Credit Services Organizations Act, the Delayed Deposit Services Licensing Act, and the Nebraska Installment Loan Act (2016)

Left in Committee

OVERVIEW

This bill would substantially amend the Delayed Deposit Services Licensing Act to change the manner in which the business of payday advances is conducted and is regulated by the Nebraska Department of Banking and Finance.

The bill would provide that a licensee, in connection with a delayed deposit loan, may receive only: interest of no more than thirty-six percent per annum; a monthly maintenance fee of the lesser of five percent of the loan amount or twenty dollars; and charges for presentation of nonnegotiable instruments not to exceed fifteen dollars, court costs, and attorney's fees, and the attorney's fees may not exceed the loan amount.

The bill would provide that a licensee shall not lend an amount greater than five hundred dollars, plus allowable fees and interest, to any borrower.

The bill would provide that delayed deposit loans shall be precomputed loans, payable in equal installments of principal, fees, interest, and charges combined. The bill would provide that a total monthly payment shall not exceed the greater of five percent of a borrower's gross, pretax monthly income or six percent of the borrower's net, posttax monthly income.

The bill would amend the Nebraska Installment Loan Act to provide that the minimum term of an installment loan shall be six months.

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would amend section 45-804 of the Credit Services Organization Act to provide that a credit services organization shall not charge any fees in connection with a loan governed by the Nebraska Installment Loan Act.

Section 2 would amend section 45-901 of the Delayed Deposit Services Licensing Act to provide for assignment of new sections within the act.

Section 3 would amend section 45-902 of the Delayed Deposit Services Licensing Act to provide for definitions. This section would amend the definition of: “delayed deposit services business” (a person who engages in the practice of offering or providing a delayed deposit loan, who arranges a delayed deposit loan for a third party, or who acts as an agent for a third party rather than a person who for a fee accepts a check dated subsequent to the date it was written or accepts a check dated on the date it was written and holds the check for a period of days prior to deposit or presentment pursuant to agreement). This section would enact new definitions of: “annual percentage rate;” “borrower;” “default;” “delayed deposit loan” (a consumer loan whereby a licensee, for a fee, accepts a dated instrument from the borrower as sole security, agrees to hold the instrument for a period of time prior to deposit or negotiation, and pays to the borrower, credits the borrower’s account, or pays to another person on the borrower’s behalf the amount of the instrument, less charges permitted under the act); “department;” “instrument” (a check, draft, or authorization to transfer or withdraw funds from an account); and “loan amount” (the amount financed as calculated pursuant to Regulation Z under the federal Truth and Lending Act.

Section 4 would amend section 45-904 of the Delayed Deposit Services Licensing Act to provide that any delayed deposit loan made by a person required to be licensed but is not licensed is void, and such person has no right to collect, receive, or retain any principal, interest, or fees.

Section 5 would amend section 45-906 of the Delayed Deposit Services Licensing Act to increase the fee for the application for a license from “five hundred” dollars to “one thousand” dollars.

Section 6 would amend section 45-907 of the Delayed Deposit Services Licensing Act to harmonize terminology.

Section 7 would amend section 45-908 of the Delayed Deposit Services Licensing Act to provide that the Director of Banking and Finance shall issue a license to an applicant if the director determines, among other things, that the applicant has assets of at least “fifty thousand” dollars rather than “twenty-five” thousand dollars available for operating the delayed deposit services business.

Sections 8 to 10 would amend sections 45-911, 45-915, and 45-915.01 of the Delayed Deposit Services Licensing Act to harmonize terminology.

Section 11 would amend section 45-917 of the Delayed Deposit Services Licensing Act to provide that each delayed deposit loan transaction shall be documented by a written agreement, including disclosures, signed by both the licensee and the borrower.

Section 12 would enact a new section in the Delayed Deposit Services Licensing Act to provide that every licensee shall conspicuously display a schedule of all finance charges, fees, interest, other charges, and penalties for services provided by the licensee, and that the notice shall be posted at every office of the licensee.

Section 13 would amend section 45-918 of the Delayed Deposit Services Licensing Act to provide that delayed deposit loans shall be precomputed loans, payable in substantially equal installments of principal, fees, interest, and charges combined, and that the total monthly payment shall not exceed the greater of five percent of a borrower's gross, pretax monthly income or six percent of the borrower's net, posttax monthly income.

Section 14 would enact a new section in the Delayed Deposit Services Licensing Act to provide that licensees may charge, collect, and receive only: interest of no more than thirty-six percent per annum; a monthly maintenance fee of the lesser of five percent of the loan amount or twenty dollars (such fees shall not be charged to individuals on active duty military or their spouses or dependents); and charges permitted for the presentation of nonnegotiable instruments. This section would provide that a licensee shall not charge, collect, or receive a total amount of fees, interest, and charges that exceeds fifty percent of the original loan amount. This section would provide that no licensee shall charge, collect, or receive any finance charges, fees, or interest for loan brokerage, insurance, or any other ancillary products.

Section 15 would enact a new section in the Delayed Deposit Services Licensing Act to provide that if an instrument held by a licensee is returned unpaid to the licensee due to insufficient funds, a closed account, a stop-payment order, or other reason, the licensee may exercise all civil means to collect the face value of the instrument. This section would provide that a licensee may contract for and collect one returned instrument charge for each delayed deposit loan, not to exceed fifteen dollars, plus court costs and attorney's fees, and that attorney's fees may not exceed the loan amount.

Section 16 would enact a new section in the Delayed Deposit Services Licensing Act to provide that a licensee shall accept prepayment from a borrower without charging a penalty, and that upon prepayment, the licensee shall refund a prorated portion of all interest and fees.

Section 17 would enact a new section in the Delayed Deposit Services Licensing Act to provide that a licensee shall not lend an amount greater than five hundred dollars, plus allowable fees and interest, to any borrower.

Section 18 would enact a new section in the Delayed Deposit Services Licensing Act to provide that a borrower has the right to rescind a delayed deposit loan, and that a borrower has the right to redeem an instrument.

Section 19 would enact a new section to provide that deferred presentment shall be permitted only for instruments with an amount of five hundred dollars or less, plus allowable fees and interest. This section would provide that a licensee may pay the proceeds from a delayed deposit loan to the borrower in the form of a check, money order, cash, stored value card, internet transfer, or authorized automated clearinghouse transaction.

Section 20 would amend section 45-919 of the Delayed Deposit Services Licensing Act to provide that no licensee shall enter into more than one delayed deposit loan with the same borrower at any one time (rather than no licensee shall at any one time hold from any one maker more than two checks). This section would provide that no licensee shall at any one time hold from any one borrower an instrument or instruments in an aggregate amount of more than five hundred dollars, plus allowable fees and interest (rather than no licensee shall at any one time hold from any one maker a check or checks in the aggregate face amount of more than five hundred dollars). This section would provide that a licensee may hold an instrument and delay completion of a delayed deposit loan beyond the due date, but the licensee shall not charge any additional charges or fees for doing so. This section would provide that no licensee shall engage, in connection with a delayed deposit loan, in unfair or deceptive trade practices under the Uniform Deceptive Trade Practices Act.

Section 21 would amend section 45-921 of the Delayed Deposit Services Licensing Act to update provisions regarding disposition of administrative fines collected by the Department of Banking and Finance.

Section 22 would amend section 45-922 of the Delayed Deposit Services Licensing Act to harmonize terminology.

Section 23 would amend section 45-923 of the Delayed Deposit Services Licensing Act to provide that the Director of Banking and Finance may issue a cease and desist order to prohibit a licensee in violation of the act from making additional delayed deposit loans.

Section 24 would amend section 45-925 of the Delayed Deposit Services Licensing Act to harmonize terminology.

Section 25 would enact a new section in the Delayed Deposit Services Licensing Act to provide that licensees shall annually provide information specified in this section to the Director of Banking and Finance who shall annually report it and the total number of licensees to the Banking, Commerce and Insurance Committee of the Legislature.

Section 26 would enact a new section in the Delayed Deposit Services Licensing Act to provide for acceleration of the entire unpaid loan balance for a delayed deposit loan in default.

Section 27 would enact a new section in the Delayed Deposit Services Licensing Act to provide that a licensee shall provide notice to a borrower prior to the licensee's attempt to collect on a borrower's account and that a licensee shall not attempt to deposit or negotiate an instrument after two consecutive failed collection attempts unless the licensee has obtained a new, written payment authorization from the borrower.

Section 28 would amend section 45-1001 of the Nebraska Installment Loan Act to provide for assignment of section 29 within the act.

Section 29 would enact a new section in the Nebraska Installment Loan Act to provide that the minimum term of a loan contract for a loan governed by the act shall be six months from the loan transaction date.

Section 30 would provide for an operative date of January 1, 2017.

Section 31 would provide for repealers of the amendatory sections.

BONDS

LB67 (Schumacher) Provide for governmental unit bond priority (2015)

Senator Priority Bill (Ebke) (2015) Left on Select File

This bill would amend the sections of the Nebraska Governmental Unit Security Interest Act, sections 10-1101 to 10-1106, and rename the act the Nebraska Governmental Unit Security Interest and Pledge Act.

The bill would create a statutory lien and grant a security interest on ad valorem taxes and bond-pledged revenue sources of the issuing governmental unit with respect to general obligation bonds and limited tax bonds. The lien would be valid, binding, and prior against all parties having claims against the governmental unit in a bankruptcy filing.

AMENDMENTS ADOPTED ON GENERAL FILE

Amendments adopted on General File would provide that the act as amended by this bill would govern the perfection, priority, and enforcement of all security interests created by governmental units, except security interests in retirement accounts, pension funds and any other vested post-employment benefit whether such benefit is then payable or payable in the future contingent upon a future qualifying event.

BUSINESS ENTITIES

LB794 (B. Harr) Change provisions relating to the Nebraska Model Business Corporation Act and corporate occupation taxes (2016)

Enacted

Operative January 1, 2017

Committee Priority Bill

This bill, introduced at the request of the Nebraska State Bar Association, makes clean-up changes in the Nebraska Model Business Corporation Act (sections 21-201 to 21-2,232) (“new act”) before it becomes operative on January 1, 2017.

The new act was enacted by LB749 (Harr) (Laws 2014). It repealed and replaced the Business Corporation Act (sections 21-2001 to 21-20,197) (“old act”) enacted by LB109 (Kristensen) (Laws 1995). Each act was based on the then-current version of the Model Business Corporation Act as approved and promulgated by the Committee on Corporate Laws of the Section of Business Law of the American Bar Association (ABA). The ABA committee makes frequent changes in its model act.

As enacted, the new act contained an operative date of January 1, 2016. However, LB157 (McCollister) (Laws 2015), introduced on behalf of the Nebraska State Bar Association, delayed the operative date of the new act to January 1, 2017, in order to afford an additional interim and legislative session during which amendments could be acted upon before the new act becomes operative. Pursuant to 2015 interim study resolution LR263 (Harr) the bar association compiled the recommendations found in this bill.

Sections 2 to 4, 8, and 9 amend sections 21-214, 21-216, 21-227, 21-21,110, and 21-2,117 of the new act to add “limited liability company” among references of other kinds of entities. These provisions had been included in corresponding places in the old act, but were missed for inclusion in the new act.

Section 5 amends section 21-250 of the new act to preserve the grandfathering of pre-emptive rights of shareholders of pre-1996 corporations, the articles of incorporation of which were silent as to pre-emptive rights. These provisions had been included in the old act, but were missed for inclusion in the new act.

Section 6 amends section 21-253 of the new act to repeal language which provides that “directors may not be elected by less than unanimous consent.” This language appears erroneously in this section. It is the latter portion of a sentence of model act language which needed to be omitted in its entirety from LB749 because it conflicts with non-model language in section 21-270 based on state constitutional provisions regarding cumulative voting.

Section 7 amends section 21-256 of the new act which provides that a corporation may amend its articles of incorporation to provide that any action required by the act to be taken at a

shareholders meeting may be taken without a meeting, and without prior notice, if consents in writing are signed by the holders of outstanding shares having not less than the minimum vote required. This model language conflicts with non-model language in section 21-270 based on state constitutional provisions regarding cumulative voting so, accordingly, the bill adds language to this section to provide that the use of written consent to elect directors must be unanimous.

Section 10 amends section 21-2,172 of the new act which regards dissenting shareholder appraisal rights in certain events (such as merger, sale of substantially all of the assets of the corporation, etc.). The bill adds language to this section to provide that the right to dissent and obtain payment for shares shall not apply to shareholders of a bank, trust company, stock-owned savings and loan association, or the holding company of any such bank, trust company, or stock-owned savings and loan association. These amendatory provisions had been included in the old act, but were missed for inclusion in the new act.

Sections 11 to 14 enact new sections in the new act to allow a foreign corporation, in lieu of obtaining a certificate of authority in Nebraska, to file with the Secretary of State to become a body corporate of this state as a foreign domesticated corporation. These sections had been included in the old act, but were missed for inclusion in the new act.

Section 15 amends section 21-303 to correct internal references regarding foreign domesticated corporations.

Section 16 provides for an operative date of January 1, 2017.

Section 17 provides for repealers of the amendatory sections.

The bill passed 47-0-2 on March 24, 2016 and was approved by the Governor on March 30, 2016.

LB1050 (B. Harr) Authorize conversion of domestic partnerships and domestic limited liability partnerships into domestic limited liability companies or foreign limited liability companies (2016)

Enacted
Effective July 21, 2016

This bill enacts two new sections in the Uniform Partnership Act of 1998 to establish procedures whereby a domestic partnership or limited liability partnership may convert to a domestic or foreign limited liability company.

The bill passed 48-0-1 on April 1, 2016 and was approved by the Governor on April 7, 2016.

CONDOMINIUMS

LB336 (B. Harr) Change provisions relating to the Nebraska Condominium Act (2015)

Left in Committee

This bill would amend the Nebraska Condominium Act to change requirements regarding unit owner votes for certain decisions.

The bill would provide, section by section, as follows:

Section 1 would amend section 76-854 to eliminate the requirement that no amendment to the declaration may increase the number of units, or change boundaries of any unit, the allocated interests of a unit, or the uses to which any unit is restricted in the absence of the unanimous consent of the unit owners. This section would provide that no amendment to the declaration may change the boundaries of any unit, the allocated interests of any unit, or the uses to which any unit is restricted without the consent of the owner of the unit.

Section 2 would amend section 76-855 to provide that a condominium may be terminated only by agreement of unit owners of units to which at least "sixty-seven" rather than "eighty" percent of the votes in the unit owners association are allocated, or any larger percentage the declaration specifies.

Section 3 would amend section 76-870 to provide that portions of the common elements may be conveyed or subjected to a security interest by the unit owners association if persons entitled to cast at least "sixty-seven" rather than "eighty" percent of the votes in the association, including "sixty-seven" rather than "eighty" percent of the votes allocated to units not owned by a declarant, or any larger percentage the declaration specifies, agree to that action.

Section 4 would amend section 76-871 to provide that any portion of the condominium for which insurance is required under this section which is damaged or destroyed shall be repaired or replaced promptly by the unit owners association unless, among other things, "sixty-seven" rather than "eighty" percent of the unit owners, including every owner of a unit or assigned limited common element which will not be rebuilt, vote not to rebuild.

Section 5 would provide for repeal of the amendatory sections.

LB1020 (Fox) Provide for amendments to declarations to correct scrivener's errors, omissions, or errors in the declaration under the Nebraska Condominium Act (2016)

Left in Committee

This bill would amend sections 76-854 and 76-861 of the Nebraska Condominium Act to provide a procedure for the executive board of a condominium association to correct a scrivener's error or an omission or error in the condominium's declaration.

The bill would provide that if there is a scrivener's error or an omission or error in the declaration, the association may correct the scrivener's error or it may correct the error or omission to conform the declaration to Nebraska law by a two-thirds vote of the members of the executive board or by majority vote of the unit owners. If a correction is made by the members of the executive board, the board, upon written petition of unit owners with twenty percent of the votes of the association, shall call a meeting of the unit owners to consider the action. A majority of the votes of the unit owners would be required to reject the action.

LB1096 (B. Harr) Change provisions relating to amendments to declarations regarding unit boundaries under the Nebraska Condominium Act (2016)

Left in Committee

This bill would amend section 76-854 of the Nebraska Condominium Act to provide that an amendment to the declaration may change the boundaries of any unit only if the vote or agreement for the change of boundaries is approved by at least eighty percent of the votes allocated in the unit owners association. Section 76-854 currently provides that no amendment to the declaration may change the boundaries of any unit in the absence of the unanimous consent of the unit owners.

CONSUMER RENTAL PURCHASES

LB761 (Scheer) Change and update certain federal references in the Consumer Rental Purchase Agreement Act (2016)

Enacted

Effective July 21, 2016

This bill, introduced at the request of the Nebraska Department of Banking and Finance, amends the Consumer Rental Purchase Agreement Act.

The bill provides, section by section, as follows:

Section 1 amends section 69-2103 of the Consumer Rental Purchase Agreement Act, which is the definitional section of the act, to update references to federal regulations defining the terms “credit sale” and “consumer leases.”

Section 2 amends section 69-2104 of the Consumer Rental Purchase Agreement Act, which sets out the disclosure requirements for consumer agreements covered by the act. The amendment updates a reference to the federal Consumer Credit Protection Act, from a January 1, 2011 reference date to January 1, 2016.

Section 3 amends section 69-2112 of the Consumer Rental Purchase Agreement Act, which provides the advertising requirements for consumer agreements covered by the act. The amendment updates a reference to the federal Consumer Credit Protection Act, from a January 1, 2011 reference date to January 1, 2016.

Section 4 provides for repealers of the amendatory sections.

The passed 47-0-2 on February 18, 2016 and was approved by the Governor on February 24, 2016.

DIRECT PRIMARY CARE

LB817 (Riepe) Adopt the Direct Primary Care Agreement Act (2016)

Enacted

Effective July 21, 2016

Senator Priority Bill (Riepe)

OVERVIEW

This bill enacts 11 new sections to be known as the Direct Primary Care Agreement Act with a stated purpose of confirming that direct primary care agreements that meet the requirements of the act do not constitute insurance or function as a qualified health plan pursuant to any federal mandates.

SUMMARY

The bill provides, section by section, as follows:

Section 1 provides for a named act: the Direct Primary Care Agreement Act.

Section 2 provides for legislative intent and purpose.

Section 3 provides for definitions: (1) “Direct agreement;” (2) “Direct patient;” (3) “Direct provider” ((a) a physician or nurse practitioner, (b) a group of physicians or nurse practitioners, or (c) an entity that sponsors, employs, or is otherwise affiliated with a group of physicians or nurse practitioners if (i) the entity is wholly owned by the group or is a tax exempt nonprofit corporation and (ii) the entity is not otherwise regulated as a health care service contractor, HMO, or disability insurer); (4) “Direct service charge;” (5) “Patient’s representative;” and (6) “Primary Care” (general health care services of the type provided at the time a patient seeks preventative care or first seeks health care services for a specific health concern).

Section 4 provides that in order to be valid under the act, a direct agreement between a direct provider and a direct patient or the patient’s representative in which the direct provider charges a direct service charge as consideration for being available to provide and for providing primary care services to the direct patient shall meet the requirements set forth in this section, including that a direct agreement shall describe the scope of the primary care services included, that a direct care agreement shall state each location where primary care services may be provided and whether out-of-office services are included, that a direct agreement shall specify the direct service charge and any other charges, and that a direct agreement shall specify its duration, whether renewal is automatic and, procedures for renewal.

Section 5 provides that a direct provider shall provide a written disclaimer that informs a patient of his or her financial rights and responsibilities and that states that the direct provider will not bill a health insurance carrier for services covered under the direct agreement.

Section 6 provides that a direct provider shall not refuse to accept a new direct patient or discontinue care to an existing direct patient solely because of the patient's health status.

Section 7 provides that a direct agreement is not insurance and is not subject to Chapter 44 of the Nebraska Statutes (Insurance) and that a direct provider or an agent of a direct provider is not required to obtain a certificate of authority or license under Chapter 44 to sell or offer to sell a direct agreement. This section provides that a direct provider shall not bill an insurer for services provided under a direct agreement and that a direct provider is not prohibited from billing insurance for services not provided under a direct agreement.

Section 8 provides that a direct provider may accept payment of direct service charges directly or indirectly from third parties.

Section 9 provides that a direct agreement shall not be sold or transferred by either party without the written consent of the other party.

Section 10 provides that a direct provider may accept payment of direct service charges directly or indirectly from the medical assistance program under the Medical Assistance Act.

Section 11 provides that a direct provider may provide primary care services to a patient who is not a party to a direct agreement with that provider and may receive payment for the services.

The bill passed 48-0-1 on March 24, 2016 and was approved by the Governor on March 30, 2016.

ECONOMIC DEVELOPMENT

LB395 (Schilz) Adopt the Nebraska Enterprise Act and authorize grants for economic development (2015)

Left in Committee

OVERVIEW

This bill would enact 11 new sections to be known as the Nebraska Enterprise Act to create a fund out of which the Nebraska Enterprise Fund Authority, created by this act, would award grants for business recruitment and relocation, capital improvement, and infrastructure development.

SUMMARY

The bill would provide, section by section, as follows:

Section 1 would enact a new section to provide for a named act: the Nebraska Enterprise Act.

Section 2 would enact a new section to provide that the purpose of the act is: to provide business recruitment closure incentives; to attract new jobs and investment in Nebraska; to provide grants for capitalization needs of new and expanding businesses; to provide front-end assistance to businesses; to foster economic development; and to broaden the tax base, generate revenue, and reduce property taxes.

Section 3 would enact a new section to provide for definitions of “authority” (Nebraska Enterprise Fund Authority) and “department” (Department of Economic Development).

Section 4 would enact a new section to provide for creation of the Nebraska Enterprise Fund Authority to consist of nine voting members appointed by the Governor and confirmed by the Legislature: four members who have experience in working with companies that have worked on economic development initiatives; one member who has experience as a small business owner; one member who has experience as a business executive in a business that works on economic development initiatives; three members who are residents of rural counties; and two non-voting members who are members of the Legislature.

Section 5 would enact a new section to provide for creation of the Nebraska Enterprise Fund to consist of: amounts appropriated by the Legislature; interest earned on money in the fund; and gifts, grants, and other donations. This section would provide that the fund shall be administered by the authority and shall be used to award grants for business recruitment and relocation, capital improvement, and infrastructure development.

Section 6 would enact a new section to provide that the authority may negotiate, on behalf of the state, the awarding of grants from the Nebraska Enterprise Fund. This section would provide that a grant applicant shall meet stated requirements and that the authority shall enter into a written agreement with the grant recipient.

Section 7 would enact a new section to provide that before the authority awards a grant, it shall prepare a statement that assesses the direct economic impact that approval of the grant will have on the residents of the state.

Section 8 would enact a new section to provide that the authority shall give priority to: grants to small businesses that commit to using the grants to create additional jobs; grants to small businesses from outside the state that commit to relocate to this state; and grants for projects that create one hundred or fewer additional jobs.

Section 9 would enact a new section to provide that an agreement entered into under the act may be amended by the authority and the grant recipient.

Section 10 would enact a new section to provide that each grant recipient shall submit an annual progress report to the authority.

Section 11 would enact a new section to provide that the authority shall submit an annual report to the Legislature on grants made under the act.

ELECTRIC PAYMENT TRANSACTIONS

LB193 (Nordquist) Prohibit the collection of interchange fees on specified taxes and provide penalties (2015)

Left in Committee

This bill would enact seven new sections to prohibit the collection of interchange fees on certain taxes or fees in the case of electronic payment transactions initiated by debit card or credit card. The bill would provide that the amount of any state or local tax or fee that is calculated as a percentage of an electronic payment transaction amount and listed separately on the invoice or the amount of any motor fuel taxes shall be excluded from the amount of the interchange fee charged for that electronic payment transaction.

The bill would provide the Attorney General with enforcement authority. Intentional violations would be subject to court-imposed civil penalties of not less than one thousand dollars nor more than five thousand dollars per violation. The court would be authorized to order equitable relief. Persons paying interchange fees in violation of the bill would be allowed to seek actual damages.

The bill would provide that if it were held invalid with regard to a federally chartered financial institution, then the bill shall be equally invalid with regard to a financial institution licensed by or operating in this state. The bill would provide that it is not severable.

The bill would provide that it shall be applicable to electronic payment transactions processed on or after October 1, 2015.

LB760 (Scheer) Update certain references to the federal Electronic Fund Transfer Act (2016)

Enacted

Effective July 21, 2016

This bill, introduced at the request of the Nebraska Department of Banking and Finance, amends various sections related to financial institutions.

The bill provides, section by section, as follows:

Section 1 amends section 8-135 of the Nebraska Banking Act relating to deposit accounts. The amendment updates a reference to the federal Electronic Fund Transfer Act from a January 1, 2013 reference date to January 1, 2016.

Section 2 amends section 8-157.01 of the Nebraska Banking Act relating to electronic switches and automatic teller machines. The amendment updates a reference to the federal Electronic Fund Transfer Act from a January 1, 2015 reference date to January 1, 2016.

Section 3 amends section 8-318 relating to share accounts in building and loan associations. The amendment updates a reference to the federal Electronic Fund Transfer Act from a September 4, 2005 reference date to January 1, 2016.

Section 4 amends section 8-345.01 relating to the authority of building and loan associations to establish automatic teller machines. The amendment updates a cross-reference to the former statute governing automatic teller machines, section 8-157, to the current statute, section 8-157.01.

Section 5 provides for repealers of the amendatory sections.

The bill passed 45-0-4 on February 18, 2016 and was approved by the Governor on February 24, 2016.

FRANCHISE AGREEMENTS

LB942e (Scheer) Require disclosure of noncompete agreements by sellers of seller-assisted marketing plans and provide for reformation of a franchise agreement which unreasonably restrains competition (2016)

**Enacted
Effective April 8, 2016**

This bill amends the Seller-Assisted Marketing Plan Act and the Franchise Practices Act with regard to the disclosure and enforcement of non-compete agreements.

The bill provides, section by section, as follows:

Section 1 amends section 59-1724 of the Seller-Assisted Marketing Plan Act to provide that if a seller requires a purchaser to enter into a non-compete agreement in a side-agreement or ancillary agreement, the seller shall include a disclosure of the existence of the side-agreement or ancillary agreement in its updated disclosure document as filed with the Department of Banking and Finance.

Section 2 amends section 87-402 of the Franchise Practices Act to define “non-compete agreement” as an agreement between a franchisor and a franchisee that restricts the business activities in which such persons may engage during or after the term of the franchise.

Section 3 amends section 87-404 of the Franchise Practices Act to provide that if restrictions in a non-compete agreement are found by an arbitrator or a court to be unreasonable in restraining competition, the arbitrator or court shall reform the terms of the non-compete agreement to the extent necessary to cause the restrictions to be reasonable and enforceable. This section further provides that the arbitrator or court shall then enforce the non-compete agreement in accordance with the reformed terms of the non-compete agreement.

Section 4 provides for repealers of the amendatory sections.

Section 5 provides for the emergency clause.

The bill passed 47-0-2 with the emergency clause on April 1, 2016 and was approved by the Governor on April 7, 2016.

INSURANCE

LB11 (Krist) Change participation and reimbursement provisions under the Managed Care Plan Network Adequacy Act (2015)

Left in Committee

This bill would amend section 44-7105 of the Managed Care Plan Network Adequacy Act to provide that a health carrier shall not deny participation by or reimbursement to a provider providing services to a covered person solely based on a familial relationship between the provider and the covered person.

The bill carries the emergency clause.

LB48 (Scheer) Change unfair insurance trade practices relating to casualty losses (2015)

Left in Committee

This bill would amend section 44-1525 of the Unfair Insurance Trade Practices Act to provide that the following acts or practices by an insurer shall be unfair trade practices in the business of insurance:

- (1) Refusing to issue, refusing to renew, canceling, or limiting the amount of coverage on a property and casualty risk due to a weather-related casualty to the risk under a homeowner's policy unless the policyholder failed to make repairs for a prior weather-related casualty to the risk;
- (2) Surcharging a policyholder for a property and casualty loss under a homeowner's policy on which the insurer did not pay a claim; and
- (3) Surcharging a policyholder for a property and casualty loss under a homeowner's policy due to a weather-related casualty to a previously occupied or noncovered property.

AMENDMENTS ADOPTED IN COMMITTEE

Amendments adopted in committee would change "weather-related" casualty to "wind or hail" casualty.

LB51 (Scheer) Require disclosures prior to joining a risk management pool under the Intergovernmental Risk Management Act (2015)

Left in Committee

This bill would enact a new section in the Intergovernmental Risk Management Act to provide that before a public agency takes official action to become a member of a risk management pool, the pool shall provide each member of the governing body of the public agency with a written disclosure form containing specific information and statements.

The required information in the disclosure form would include: (1) any mandatory term of membership; (2) the name and location of any third party administrator providing services for the pool; (3) a list of insurers providing excess insurance or reinsurance coverage for the pool; (4) deductible levels and the maximum level of claims the pool will self-insure; and (5) the requirements for voluntary termination of membership in the pool.

The required statements in the disclosure form would express that: (1) termination of membership in a pool does not release a member from continued liability for contractual obligations already entered into; (2) members may have joint and several liability for financial obligations of the pool; (3) a pool is not an insurance company or a member of a guaranty association; and (4) a pool is issued a certificate of authority by the Department of Insurance and is examined every four years.

The bill also would amend section 44-4309 of the Intergovernmental Risk Management Act to provide that a member of a pool may voluntarily terminate participation in the pool by giving notice to the other members of the pool and the Director of Insurance at least “thirty” days rather than “ninety” days prior to the desired termination date.

LB78 (Gloor) Change provisions relating to the public agencies authorized to enter into agreements under the Intergovernmental Risk Management Act (2015)

Left in Committee

This bill would amend section 44-4304 of the Intergovernmental Risk Management Act to eliminate the prohibition against school districts and educational service units becoming members of a risk management pool for the purpose of providing health, dental, accident, and life insurance to the members’ employees and officers.

LB79 (Gloor) Require insurance coverage for renewals of prescription eye drops (2015)

Left in Committee

This bill would enact a new section to provide that individual and group health policies, certificates, contracts, or plans that provide coverage for prescription eye drops shall include

coverage for a renewal when (1) the prescribing health care professional indicates on the original prescription that renewals are needed, (2) the renewal requested does not exceed the number of authorized renewals, and (3) the renewal is requested within thirty days after the date the original prescription was distributed or within thirty days after the date the last renewal was distributed.

LB124 (Nordquist) Provide requirements relating to copayments, coinsurance, and deductibles (2015)

Left in Committee

This bill would enact a new section to provide that a health insurer shall not charge a copayment, coinsurance, or deductible for services rendered for each date of service by or separate office visit with a physical therapist, occupational therapist, audiologist, speech-language pathologist, or chiropractic physician that is greater than the copayment, coinsurance, or deductible charged for the services of a primary care physician or an osteopathic physician for such services.

LB234 (Krist) Change provisions relating to filing requirements of insurance companies (2015)

Left on General File

Section 44-322 currently requires every insurance company holding a certificate of authority to transact the business of insurance in Nebraska to annually file the salaries and compensation of its officers with the Director of Insurance. This bill would amend this section to require that such information shall be maintained as confidential by the director and shall not be subject to disclosure by the director to persons outside of the Department of Insurance except as agreed to by the insurance company or as ordered by a court of competent jurisdiction.

LB341 (Howard) Provide requirements relating to health benefit plan coverage for insureds in jail custody (2015)

Left in Committee

This bill would provide that a health insurer may not deny reimbursement for any covered service or supply or cancel the coverage of an insured because: (a) the insured is in custody pending disposition of charges; (b) the insured receives publicly funded medical care while in custody; or (c) the care was provided to the insured by an employee or contractor of a political subdivision and the employee or contractor meets the credentialing criteria of the health benefit plan.

The bill would provide that an insurer shall reimburse a political subdivision for the costs of covered services or supplies provided to an insured in custody, pending disposition of charges, in an amount not less than 115 percent of the medicare rate for the service or supply.

The bill would provide that the insurer may: (a) deny coverage for the treatment of injuries resulting from a violation of law; (b) exclude covered services provided to an insured in custody from requirements for reporting quality outcomes or performance; (c) impose utilization controls; (d) impose requirements for billing and medical coding; (e) deny coverage of diagnostic tests or health evaluations required for all individuals in custody pending disposition of charges; (f) limit coverage of hospital and ambulatory surgical center services provided to an insured in custody to services provided by in-network hospitals and ambulatory surgical centers; and (g) reimburse an out-of-network renal dialysis facility at the in-network or out-of-network rate for dialysis provided to an insured in custody.

The bill would provide that an insurer may not refuse to credential a health care provider who is an employee or contractor of a political subdivision because the employee or contractor provides services in a facility operated by the political subdivision.

The bill would provide that it does not (a) impair any right of an employer to remove an employee from health benefit plan coverage, (b) release insurers from the requirement to coordinate benefits, and (c) limit an insurer's right to rescind coverage in accordance with law.

The bill would provide that a political subdivision may not pay health benefit plan premiums on behalf of a person in custody.

The bill would provide that it would apply to reimbursement claims on or after January 1, 2015.

LB451 (Hansen) Change and eliminate provisions relating to stacking of insurance coverage (2015)

Left in Committee

This bill would amend sections 44-6410 and 44-6411 of the Uninsured and Underinsured Motorist Insurance Coverage Act to provide that no policy of insurance shall prohibit the limits of liability for uninsured or underinsured motorist coverage for two or more motor vehicles insured under the same policy or separate policies from being stacked to determine the limit of coverage available to an injured person for any one accident.

LB488 (Scheer) Adopt the Transportation Network Insurance Act (2015)

Left in Committee

This bill would require a transportation network company and/or a participating driver to maintain "transportation network company insurance" that includes primary liability coverage, uninsured and underinsured motorist coverages, and collision and comprehensive physical damage coverages. Liability coverage would be at least five hundred thousand dollars for death, personal injury, and property damage during the "engaged stage" and during the "passengers on board stage." Liability coverage would be at least twenty-five thousand dollars for death and

personal injury per person, fifty thousand dollars for death and personal injury per incident, and twenty-five thousand dollars for property damage during the “application open stage.” (Sections 4 and 5)

The bill would provide the following definitions: (1) “application open stage” (the time period from the moment the participating driver logs on to the transportation network company’s online enabled application until the driver accepts a request to transport a passenger and from the moment the driver completes the transaction or the passenger exits the vehicle, whichever is later, until the driver either accepts another ride request or logs off); “engaged stage” (the time period from the moment a participating driver accepts a ride request on the transportation network company online-enabled application until the driver completes the transaction or until the passenger exits the vehicle, whichever is later); “insurance policy”; “participating driver” (any person who uses a vehicle in connection with a transportation network company’s online-enabled application to connect with passengers); “passengers on board stage” (the time period when there are passengers in the vehicle pursuant to the driver’s participation in a transportation network company); “transportation network company” (an organization that provides prearranged transportation services for compensation using an online-enabled application to connect passengers with participating drivers using a personal vehicle; and “transportation network company insurance” (an insurance policy that expressly covers loss arising from a participating driver’s use of a personal vehicle in connection with a transportation network company’s online enabled application, including coverages for liability, uninsured motorist, underinsured motorist, collision, and comprehensive). (Section 2)

The bill would provide that it does not limit the liability of a transportation network company arising out of an accident involving a participating driver for an amount above the required insurance coverage. The bill would provide that it does not require a private passenger automobile insurance policy to provide primary or excess coverage during the period of time from the moment a participating driver logs on to the transportation network company’s online-enabled application until the driver logs off or the passenger exits the motor vehicle, whichever is later. The bill would provide that during the period of time from the moment a participating driver logs on to the transportation network company’s online-enabled application until the driver logs off or the passenger exits the motor vehicle, whichever is later, the participating driver’s or the motor vehicle owner’s personal automobile insurance policy shall not provide any coverage to the participating driver, motor vehicle owner, or any third party unless the policy expressly provides for that coverage. (Sections 7, 8, and 9)

Note: LB629 (Mello), Laws 2015, contains, among other things, provisions similar to those contained in LB488.

LB531 (Kolterman) Provide requirements for publication of insurance information (2015)

Left in Committee

This bill would enact a new section to provide that every policy of health insurance, health plan, or health maintenance organization subscription sold or offered directly to individuals shall

provide, prior to purchase, the following information in a clear and understandable format for use in comparing coverage and premiums: (a) any exclusions and restrictions on the use or quantity of covered items and services in each category of benefits, including prescription drugs and drugs administered in a physician's office or clinic; (b) any item or service, including a prescription drug that has a coinsurance requirement, as to which the cost-sharing amount depends on the cost of the item or service; (c) how to determine whether a specific prescription drug is available on a formulary or is a covered item when furnished by a physician's office or clinic and any clinical prerequisites or authorization requirements for a specific prescription drug; (d) the process by which an insured may obtain reversal of a denial of coverage decision with respect to an item or service prescribed or ordered by the treating physician; and (e) a description of how prescription drugs will be included in or excluded from applicability of a deductible.

The bill would require the Department of Insurance to ensure that (a) any web site maintained by a state agency for the sale of health insurance, health plans, or health maintenance organization subscriptions directly to individuals prominently provides links to Internet-based tools and calculators for assisting potential purchasers in accessing the information needed to make informed decisions; and (b) each entity offering health insurance, health plans, or health maintenance organization subscriptions directly to individuals shall post the information required by this bill directly on its own web site and that such information is available to the general public as well as individual insureds.

LB553 (Gloor) Change insurance provisions relating to dental services (2015)

Left in Committee

Currently, section 44-7,105 provides that an individual or group sickness or accident policy, certificate, or subscriber contract, a self-funded employee benefit plan to the extent not preempted by federal law, and a certificate, agreement, or contract to provide limited health services by a prepaid limited health service organization shall not establish or limit any fees charged for dental services that are not covered by the policy, certificate, contract, agreement, or plan. Section 44-3805 of the prepaid dental services statutes provides that no prepaid dental service plan shall limit any fees charged for services that are not covered by the plan.

This bill would amend both sections to provide that dental services are considered to be covered if the service is one for which full reimbursement is actually provided on a given claim. The bill would further amend both sections to provide that they do not prohibit a policy, certificate, contract, agreement, or plan, or a prepaid dental service plan, as applicable, that does not cover a specific dental plan from offering the covered person an alternative benefit, and in such case the dentist may bill the covered person for the difference between the dentist's fee for the specific dental service provided and the alternative benefit.

LB628 (Schilz) Provide for electronic posting of property and casualty insurance policies and notices related to such policies (2015)

Left in Committee

This bill would enact two new sections to provide procedures for electronic delivery by property and casualty insurers of notices and documents (section 1) and Internet posting of property and casualty insurance policies (section 2).

The bill would provide that, subject to consent by a party, (1) any notice to a party or (2) any other document (a) required by law in an insurance transaction or (b) that is to serve as evidence of insurance coverage may be delivered, stored, and presented by electronic means. Delivery of a notice or document in accordance with the bill would be considered equivalent to any delivery method required under law.

Delivery by electronic means would include (1) delivery to an electronic mail address at which a party has consented to receive notices or documents, and (2) posting on an electronic network or site accessible via an electronic device.

A "party" would mean any recipient of any notice or document required as part of an insurance transaction, including an applicant, an insured, or a policyholder.

LB632 (Scheer) Prohibit employers and associations from precluding certain contracts relating to health benefit plans (2015)

Left on General File

This bill would enact a new section to provide that an employer or association may enter into a contract, agreement, or arrangement with an insurance agent or broker that provides for or results in compensation paid to the agent or broker for the sale of a health benefit plan. The bill would provide that the compensation may be collected by and passed through to the agent or broker by the carrier and shall not be considered premium.

COMMITTEE AMENDMENTS – LEFT PENDING ON GENERAL FILE

The committee amendments left pending on General File would provide that a fee paid to an agent or broker for the sale of a health benefit plan shall not exceed ten percent of the total anticipated premium to be paid by the employer or association.

The committee amendments would provide that the term of a contract, agreement, or arrangement entered into under the bill shall not extend past December 31, 2018.

The committee amendments would provide that an insurer shall retain a copy of a contract, agreement, or arrangement entered into under the bill pursuant to the Insurers Examination Act.

LB706 (Coash) Define habilitative services for purposes of insurance (2016)

Left in Committee

This bill would enact a new section to define “habilitative services,” for purposes of Chapter 44 (Insurance) of the Nebraska statutes, as health care services that help a person keep, learn, or improve skills and functioning for daily living, including applied behavior analysis.

The term “habilitative services” is not used in Chapter 44.

LB740 (Hansen) Add an unfair claims settlement practice under the Unfair Insurance Claims Settlement Practices Act (2016)

Left in Committee

This bill would amend section 44-1540 of the Unfair Insurance Claims Settlement Practices Act to provide that it shall be an unfair claims settlement practice to fail to disclose to a claimant, prior to the settlement of a claim in which a motor vehicle is declared a total loss, any market survey information used by the insurer in determining the value of the motor vehicle.

LB758 (Scheer) Prohibit limited liability companies from operating as insurers (2016)

Enacted

Effective July 21, 2016

This bill, introduced on behalf of the Director of Insurance, prohibits insurers from operating as a limited liability company, and also prohibits special purpose financial captive insurers from establishing as a limited liability company or partnership.

The bill provides, section by section, as follows:

Section 1 amends section 21-104 of the Nebraska Uniform Limited Liability Company Act to provide that a limited liability company may not operate as an insurer as defined by section 44-103.

Section 2 amends section 44-8216 of the Captive Insurers Act to eliminate the ability of a special purpose financial captive insurer to be established as a limited liability company or a partnership.

A special purpose captive insurer is a domestic captive insurer that provides insurance or reinsurance protection to a counterparty (a domestic life insurer that is the captive insurer’s parent or an affiliated entity).

The bill passed 48-0-1 on March 3, 2016 and was approved by the Governor on March 9, 2016.

LB770e (Groene) Change the termination date of the Nebraska Exchange Transparency Act and the terms of certain members of the Nebraska Exchange Stakeholder Commission (2016)

Enacted
Effective April 7, 2016

This bill amends sections 44-8703 and 44-8706 of the Nebraska Exchange Transparency Act to provide that terms of appointed members of the Nebraska Exchange Stakeholder Commission shall be “three” rather than “four” years and that the act shall terminate on July 1, “2016” rather than July 1 “2017.”

The bill passed 47-0-2 with the emergency clause on March 31, 2016 and was approved by the Governor on April 6, 2016.

LB770Ae (Groene) Appropriation Bill (2016)

Enacted
Effective April 7, 2016

This bill reduces cash funds appropriated to the Department of Insurance by \$1,440 for FY2015-16 and for FY2016-2017.

The bill passed 47-0-2 with the emergency clause on March 31, 2016 and was approved by the Governor on April 6, 2016.

LB772e (Schumacher) Adopt the Corporate Governance Annual Disclosure Act and change provisions relating to insurance holding companies and risk retention groups (2016)

Enacted
Effective March 31, 2016, except sections 1 to 9, 15, and 18 become operative on January 1, 2017

Contains provisions of LB819 (Lindstrom)
Committee Priority Bill

OVERVIEW

This bill, introduced at the request of the Nebraska Director of Insurance, enacts nine new sections to be known as the Corporate Governance Annual Disclosure Act in order to provide an annual summary of an insurer’s or insurance group’s corporate governance structure, policies, and practices to permit the director to gain and maintain an understanding of the insurer’s or insurance group’s corporate governance framework. (Sections 1 to 9.) The bill also amends section 44-4404 of the Risk Retention Act in order to provide governance standards for risk retention groups licensed and chartered in this state. (Section 15.) These provisions are based on model language adopted by the National Association of Insurance Commissioners (NAIC) and were originally introduced as LB819 (Lindstrom).

The bill also amends the Insurance Holding Company System Act to address group-wide supervision of international insurance groups. The bill updates Nebraska insurance law to reflect the latest changes to the Insurance Holding Company System Regulatory Model Act adopted by the NAIC. (Sections 10 to 14, and 16.)

SUMMARY

The bill provides, section by section, as follows:

Section 1 provides for a named act: the Corporate Governance Annual Disclosure Act.

Section 2 provides for legislative purposes of the Corporate Governance Annual Disclosure Act: (1) to provide the director a summary of an insurer's or insurance group's corporate governance structure, policies, and practices; (2) to outline the requirements for completing a corporate governance annual disclosure; and (3) to provide for confidential treatment of the corporate governance annual disclosure that contains confidential and sensitive information related to an insurer's or insurance group's internal operations.

Section 3 provides for definitions for purposes of the Corporate Governance Annual Disclosure Act: (1) "corporate governance annual disclosure" – a confidential report filed by an insurer or insurance group made in accordance with the act; (2) "director;" and (3) "insurance group" – those insurers and affiliates included within an insurance holding company.

Section 4 enacts a new section of the Corporate Governance Annual Disclosure Act to provide that an insurer, or the insurance group of which the insurer is a member, shall no later than June 1 of each calendar year, submit to the director a corporate governance annual disclosure that contains the information described in section 5.

Section 5 enacts a new section of the Corporate Governance Annual Disclosure Act to provide that a corporate governance annual disclosure shall be prepared in a manner prescribed by the director.

Section 6 enacts a new section of the Corporate Governance Annual Disclosure Act to provide that information, including the corporate governance annual disclosure, in the possession or control of the Department of Insurance are proprietary and contain trade secrets and shall be confidential and shall not be a public record.

Section 7 enacts a new section in the Corporate Governance Annual Disclosure Act to provide that the director may retain, at the insurer's expense, experts not on the department's staff to assist in reviewing the corporate governance annual disclosure.

Section 8 enacts a new section in the Corporate Governance Annual Disclosure Act to provide for sanctions by the director if an insurer fails to timely file a corporate governance annual disclosure as required by the act.

Section 9 enacts a new section in the Corporate Governance Annual Disclosure Act to provide the director with rule and regulation authority.

Section 10 amends section 44-2120 to assign new sections 12 and 13 to the Insurance Holding Company System Act.

Section 11 amends section 44-2121 of the Insurance Holding Company System Act to enact new definitions. “Group-wide supervisor” is defined as the chief insurance regulatory official, including the Director of Insurance, who is authorized to conduct group-wide supervision activities of an international insurance group and is from a jurisdiction determined by the director to have sufficient contacts with the international insurance group. An “international insurance group” is defined as an insurance holding company system determined by the director to be an international insurance group under section 12.

Section 12 enacts a new section in the Insurance Holding Company System Act to provide that the director may determine whether or not an insurance holding company system is an international insurance group.

Section 13 enacts a new section to provide that the director, in cooperation with other state, federal, and international regulatory agencies, may identify a group-wide supervisor for an international insurance group in accordance with the provisions of this section. This section provides that the director may determine that he or she is the appropriate group-wide supervisor, or he or she may acknowledge that a chief insurance regulatory official from another jurisdiction is the appropriate group-wide supervisor.

Section 14 amends 44-2138, the confidentiality statute of the Insurance Holding Company System Act, to include information subject to section 13.

Section 15 amends section 44-4404 of the Risk Retention Act in order to provide governance standards for risk retention groups licensed and chartered in this state.

Section 16 amends 44-9004 of the Risk Management and Own Risk and Solvency Assessment Act to harmonize a subdivision cross reference to section 44-2121.

Section 17 provides that sections 1 to 9, 15, and 18 become operative on January 1, 2017, and that sections 10 to 14, 16, 17, 19, and 20 become operative on the effective date of the bill (March 31, 2016).

Sections 18 and 19 provide for repealers of the amendatory sections.

Section 20 provides for the emergency clause.

The bill passed 46-0-3 with the emergency clause on March 24, 2016 and was approved by the Governor on March 30, 2016.

LB796 (B. Harr) Prohibit alterations to liability insurance coverage for claims under the Minor Alcoholic Liquor Liability Act (2016)

Left in Committee

This bill would enact a new section in Chapter 44 (Insurance) to provide that no homeowner's or owner's, landlord's, or tenant's property and casualty insurance policy shall exclude, limit, reduce, or otherwise alter liability coverage for a claim solely because the claim arises pursuant to the Minor Alcoholic Liquor Liability Act (sections 53-401 to 53-409).

LB801 (Bolz) Require educational material and a report relating to long-term care insurance (2016)

Indefinitely Postponed in Committee

This bill would enact a new section in the Long-Term Care Insurance Act to require the Director of Insurance to develop educational and informational material relating to the importance of long-term care insurance, including forecasted costs of long-term care and the benefits to purchasing long-term care insurance. The material may include estimated rates and coverages. The bill would require the director to disseminate the material to target audiences that would benefit from such material.

The bill would require the director, on July 1 of even-numbered years, beginning in 2018, to submit a report to the Legislature that includes (1) the rate at which individuals purchase long-term care insurance, (2) the rate at which individuals retain long-term care insurance, and (3) the average premium paid for long-term care insurance grouped by age.

LB819 (Lindstrom) Adopt the Corporate Governance Annual Disclosure Act (2016)

Left on General File

Provisions amended into LB772e (Schumacher) and Enacted

This bill, introduced at the request of the Nebraska Department of Insurance, would enact nine new sections to be known as the Corporate Governance Annual Disclosure Act in order to provide an annual summary of an insurer's or insurance group's corporate governance structure, policies, and practices to permit the Director of Insurance to gain and maintain an understanding of the insurer's or insurance group's corporate governance framework.

The bill would also amend section 44-4404 of the Risk Retention Act in order to provide governance standards for risk retention groups licensed and chartered in this state.

Both parts of this bill would enact provisions of model laws adopted by the National Association of Insurance Commissioners.

The bill would provide for an operative date of January 1, 2017.

LB837 (Scheer) Change provisions relating to premium taxes and quarterly statements under the Surplus Lines Insurance Act (2016)

Enacted

Operative January 1, 2017

Speaker Priority Bill

This bill amends sections 44-5506 and 44-5515 of the Surplus Lines Insurance Act to change the manner in which premium taxes are computed and paid to the Director of Insurance by surplus lines licensees for the placement of nonadmitted insurance.

The bill provides that a surplus lines licensee shall collect and pay to the director a sum based on the total gross premiums charged for surplus lines insurance provided by the licensee pursuant to its license “on behalf of an insured whose home state is the State of Nebraska.” The bill provides that the sum payable shall be three percent of the premiums “for insurance that covers properties, risks, or exposures located or to be performed in the United States.”

Under previous law, when the insurance covered properties, risks, or exposures located or to be performed solely in this state on behalf of an insured whose home state is the State of Nebraska, the sum payable was three percent of the premiums; and when the insurance covered properties, risks, or exposures located or to be performed both in and out of this state, the sum payable was (1) for in-state risks, three percent, and (2) for out-of-state risks, the rate established by the state where the properties, risks, or exposures are located or performed.

The bill amends provisions regarding exempt commercial purchasers.

The bill eliminates provisions which authorize the Director of Insurance to enter into the Nonadmitted Insurance Multi-State Agreement to facilitate the collection, allocation, and disbursement of premium taxes attributable to the placement of nonadmitted insurance.

The bill provides for an operative date of January 1, 2017.

The bill passed 47-0-2 on April 1, 2016 and was approved by the Governor on April 7, 2016.

LB840 (Fox) Change provisions relating to the time allowed for certain internal grievances under the Health Carrier External Review Act (2016)

Enacted

Effective July 21, 2016

This bill, introduced at the request of the Director of Insurance, amends sections 44-1305 and 44-1307 of the Health Carrier External Review Act to change the time allowed for a health carrier to act upon an internal grievance from thirty days to fifteen days.

The bill passed 47-0-2 on March 3, 2016 and was approved by the Governor on March 9, 2016.

LB1041 (Cook) Provide for disapproval of certain insurance rate filings if they use price optimization (2016)

Left in Committee

This bill would amend section 44-7508 of the Property and Casualty Rate and Form Act to provide that the Director of Insurance shall disapprove a policy that would discriminate between risks based on “price optimization” – defined as the use of factors to determine or adjust an insured’s premium that are not specifically related to the insured’s risk or hazard, including an insured’s propensity to shop for insurance, ask questions, or file complaints in response to an increase in the insured’s premiums.

LB1060 (Fox) Adopt the Pharmacy Benefit Fairness and Transparency Act and provide duties for the Director of Insurance (2016)

Left in Committee

This bill would enact the Pharmacy Benefit Fairness and Transparency Act to provide for regulation of pharmacy benefit managers by the Nebraska Department of Insurance.

The bill would provide, section by section, as follows:

Section 1 would enact a new section to provide for a named act: the Pharmacy Benefit Fairness and Transparency Act.

Section 2 would enact a new section to provide for definitions: “affiliate or affiliated;” “clean claim;” “contracted pharmacy” (a pharmacy located in this state participating either in the network of a pharmacy benefit manager or in a health care or pharmacy benefits plan with a pharmacy services organization, a group purchasing organization, or another contracting agent); “control;” “covered entity” (a health insurer, managed care company, an HMO; a health program administered by the state; or an employer, labor union, or other group that provides health insurance coverage); “covered individual” (a member, participant, enrollee, contract holder, policyholder, or beneficiary of a covered entity); “day;” “department;” “director;” “generic drug;” “insurance or insurance coverage;” “insurer;” “paid;” “pharmacist;” “pharmacy;” “pharmacy benefits management” (the administration or management of prescription drug benefits by a covered entity under a contract between the pharmacy benefit manager and the covered entity); “pharmacy benefit manager” (a person in a contractual or employment relationship in the performance of pharmacy benefits management services for a covered entity); “prescription;” “prescription drugs;” and “reimbursement amount.”

Section 3 would enact a new section to provide that no person shall act as a pharmacy benefit manager in this state without a certificate of authority issued by the Director of Insurance. This section would provide requirements for issuance of a certificate of authority.

Section 4 would enact a new section to provide that no pharmacy benefit manager shall act as such without a contract with the covered entity. This section would require the written contract to contain statements of duties and benefits.

Section 5 would enact a new section to provide for maintenance of records by a pharmacy benefit manager and access to records by the Director of Insurance.

Section 6 would enact a new section to provide that if a covered entity utilizes the services of a pharmacy benefit manager, the covered entity shall be responsible for determining the benefits to be provided and claims processing and payment procedures.

Section 7 would enact a new section to provide that charges, fees, and rebates collected by a pharmacy benefit manager on behalf of or for a covered entity shall be held by the pharmacy benefit manager in a fiduciary capacity.

Section 8 would enact a new section to provide that a pharmacy benefit manager shall not enter into an agreement with a covered entity that would make the amount of the pharmacy benefit manager's commissions, fees, or charges contingent upon savings effected in the adjustment, settlement, audit services, and payment of losses covered by the covered entity's obligations.

Section 9 would enact a new section to provide that if a covered entity utilizes the services of a pharmacy benefit manager, the pharmacy benefit manager shall provide notice to the contracted pharmacies advising them of the identity of and relationship among the pharmacy benefit manager, the policyholder or contract holder, and the covered entity. This section would provide that the pharmacy benefit manager shall disclose to the covered entity all charges, fees, and commissions received in connection with providing administrative services for the covered entity. This section would provide that the pharmacy benefit manager shall disclose to the covered entity any parent company, subsidiary, or other organization related to the provision of pharmacy services, the provision of other prescription drug or device services, or a pharmaceutical manufacturer.

Section 10 would enact a new section to provide that a pharmacy benefit manager shall file an annual report with the Director of Insurance.

Section 11 would enact a new section to provide that a pharmacy benefit manager may not require a pharmacist or pharmacy to participate in one contract with a pharmacy benefit manager in order to participate in other contracts with the same pharmacy benefit manager. This section would provide that a pharmacy benefit manager may not exclude an otherwise qualified pharmacist or pharmacy from participation in a particular network.

Section 12 would enact a new section to provide that the Department of Insurance shall examine contracts between covered entities and a pharmacy benefit manager to determine if payment received by the pharmacy benefit manager and which the covered entity received from the pharmacy benefit manager has been applied toward reducing the covered entity's rates or has been distributed to covered individuals.

Section 13 would enact a new section to provide that a pharmacy benefit manager shall offer to a covered entity options for the covered entity to contract for services as set forth in this section.

Section 14 would enact a new section to provide that a pharmacy benefit manager shall perform its duties exercising good faith and fair dealing.

Section 15 would enact a new section to provide that a pharmacy benefit manager shall not contact any covered individual without the express written permission of the covered entity.

Section 16 would enact a new section to provide that a pharmacy benefit manager shall not mandate to contracted pharmacies basic recordkeeping more stringent than that required by state or federal law. This section would provide that within seven days after a price increase notification by a manufacturer or supplier, a pharmacy benefit manager shall adjust its payment to the contracted pharmacy consistent with the price increase. This section would provide that a pharmacy benefit manager must accept any pharmacy or pharmacist into its network and may not exclude a Nebraska pharmacy from its specialty network. This section would provide that a pharmacy benefit manager may utilize mail-order pharmacies in its network, but must not require or incentivize covered individuals to use a mail-order pharmacy.

Section 17 would enact a new section to provide that the Department of Insurance must require a pharmacy benefit manager to make information available to the director and to each contracted pharmacy related to the pharmacy benefit manager's pricing methodology and reimbursement amount for single and multiple-source drugs.

Section 18 would enact a new section to provide that all financial benefits a pharmacy benefit manager receives, including rebates, discounts, credits, fees, grants, and chargebacks, must be disclosed to the covered entity.

Section 19 would enact a new section to provide requirements for prompt payment of clean claims.

Section 20 would enact a new section to provide requirements for an audit of contracted pharmacy records by a pharmacy benefit manager.

Section 21 would enact a new section to provide that a pharmacy benefit manager shall mail an explanation of benefits to the patient for each patient's pharmacy claim for a prescription drug covered or managed by the pharmacy benefit manager.

Section 22 would enact a new section to provide that a covered entity that contracts with a pharmacy benefit manager shall require the pharmacy benefit manager to notify the Department of Insurance of any detection of fraud.

Section 23 would enact a new section to provide that the Director of Insurance shall suspend or revoke the certificate of authority of a pharmacy benefit manager for grounds specified in this section.

Section 24 would enact a new section to provide that the Director of Insurance may adopt and promulgate rules and regulations to carry out the act.

LIENS

LB1035 (Williams) Redefine farm product and change provisions relating to the central filing system and the master lien list (2016)

Enacted

Effective July 21, 2016

This bill amends sections 52-1308, 52-1312, and 52-1318 of the central filing system statutes, and sections 52-1601 to 52-1603 of the master lien list statutes to provide for the Secretary of State to publish effective financing statement lists and master lien lists electronically and eliminate the requirement to publish them on paper. The bill provides that the annual fee charged to registrants for each list shall not exceed two hundred dollars and that the lists shall not be produced more often than once a month or less often than once every three months.

The bill also amends the definition of “farm products” for purposes of the central filing system statutes in order to change examples of what the term includes.

The bill passed 46-0-3 on March 3, 2016 and was approved by the Governor on March 9, 2016.

REAL ESTATE

LB678 (Craighead) Change provisions of the Nebraska Real Estate License Act (2016)

Enacted

Operative October 1, 2016

OVERVIEW

This bill amends sections 81-885, 81-885.01, and 81-885.24 of the Nebraska Real Estate License Act and enacts a new section in the act to provide for regulation by the State Real Estate Commission of “teams” and “team leaders.”

SUMMARY

The bill provides, section by section, as follows:

Section 1 amends section 81-885 of the Nebraska Real Estate License Act to provide for assignment of new section 3 in the act.

Section 2 amends section 81-885.01 of the Nebraska Real Estate License Act to enact new definitions of: “team” – two or more persons licensed by the commission who (a) work under the supervision of the same broker, (b) work together on real estate transactions to provide real estate brokerage services, (c) represent themselves to the public as being part of a team, and (d) are designated by a team name; and “team leader” – any person licensed by the commission and appointed or recognized by his or her broker as the leader for his or her team.

Section 3 enacts a new section in the Nebraska Real Estate License Act to provide that a team leader shall be responsible for supervising the real estate activities of his or her team subject to the overall supervision by the designated broker of the team leader and the team members.

Section 4 amends section 81-885.24 of the Nebraska Real Estate Act to add four new unfair trade practices subject to enforcement by the commission: (1) failing by a team leader to provide a current list of all team members to his or her designated broker; (2) failing by a designated broker to maintain a record of all team leaders and team members working under him or her; (3) utilizing advertising which does not prominently display the name under which the designated broker does business as filed with the commission; and (d) utilizing team advertising or a team name suggesting the team is an independent real estate brokerage.

Section 5 provides for an operative date of October 1, 2016.

Section 6 provides for repealers of the amendatory sections.

The bill passed 47-0-2 on March 31, 2016 and was approved by the Governor on April 6, 2016.

RESIDENTIAL CONTRACTORS

LB223 (B. Harr) Change provisions of the Insured Homeowners Protection Act relating to contractor duties and prohibited acts and provide for a required notice (2015)

Left on General File

This bill would amend the sections of the Insured Homeowners Protection Act, sections 44-8601 to 44-8604.

Section 44-8603 currently provides that a person who enters into a written contract with a residential contractor to provide goods or services may cancel the written contract within three days. The act also currently provides that within ten days after a contract is canceled, the residential contractor shall tender any payments or deposits, except that if the residential contractor has provided goods or services, agreed to in order to prevent damage to the premises, the residential contractor is entitled to be paid for such goods and services. The bill would amend this section to provide that the residential contractor is entitled to be paid for such goods and services if they are provided “to repair damage resulting from a catastrophe.”

The bill would amend section 44-8602 to define “catastrophe” as a natural occurrence, including fire, earthquake, tornado, windstorm, flood, or hailstorm, which damages or destroys real estate.

The bill would amend section 44-8604 to provide that a residential contractor shall not “advertise” as well as promise to rebate any portion of an insurance deductible as an inducement to the sale of goods or services. The bill would further amend this section to provide that a residential contractor may display a sign or other advertisement on a person’s premises if the person consents and the person receives no compensation from the residential contractor for the placement of the sign or advertisement.

The bill would add a new section to the act to require that a notice of contract obligations and rights, as set forth in the bill, shall be signed by the person with whom the residential contractor is contracting prior to or contemporaneously with entering the contract.

The bill would add another new section to the act to provide that a contract entered into with a residential contractor is void if the residential contractor violates the act.

The bill would provide for an operative date of January 1, 2016.

COMMITTEE AMENDMENTS – LEFT PENDING ON GENERAL FILE

The committee amendments left pending on General File would strike the original sections of the bill and would insert and amend section 44-8604 of the Insured Homeowners Protection Act to provide that:

(1) a residential contractor shall not represent or negotiate, or offer or advertise to represent or negotiate, on behalf of an owner or possessor of residential real estate in an insurance claim; and

(2) a residential contractor shall not take an assignment of an insurance claim relating to (a) the repair or replacement of roof systems or (b) the performance of any other exterior repair, replacement, or reconstruction work on the residential real estate.

LB856 (B. Harr) Change the Insured Homeowners Protection Act (2016)

Left in Committee

This bill would amend the Insured Homeowners Protection Act.

Section 44-8602 currently defines a “residential contractor” as a person in the business of contracting with an owner or possessor of residential real estate to repair or replace a roof system, perform exterior work, or perform interior or exterior cleanup. The bill would expand this definition to include contracting to arrange for, manage, refer, transfer, or process such work, or to serve as a representative, agent, or assignee of the owner or possessor of residential in regard to such work.

The bill would amend section 44-8604 to provide that a residential contractor shall not (1) represent or negotiate on behalf of an owner or possessor of residential real estate in any insurance claim or (2) take an assignment of an insurance claim relating to the repair or replacement of roof systems or relating to the performance of any other exterior work on the residential real estate. The bill would also amend this section to provide that a contract entered into with a residential contractor is void if the residential contractor violates any section of the act.

SECURITIES

LB771 (Lindstrom) Change provisions under the Securities Act of Nebraska relating to registration by coordination and federal covered securities (2016)

Enacted

Effective July 21, 2016

This bill, introduced at the request of the Department of Banking and Finance, amends two provisions of the Securities Act of Nebraska.

The bill would provide, section by section, as follows:

Section 1 amends section 8-1106 of the Securities Act of Nebraska to change the requirement that an issuer of securities being registered by coordination notify the Director of Banking and Finance by telegram or facsimile transmission. The amendments also change the requirement that the director notify registrants by telephone or telegram of a stop order denying or suspending the effectiveness of a securities registration statement to a notification by telephone or electronic mail. The amendments also require the director to confirm any electronic notifications of stop orders by letter, as is currently required for telephone notifications.

Section 2 updates section 8-1108.02 (2) of the Securities Act of Nebraska, which relates to notices required to be filed with the department by issuers of federal covered securities. Federal covered securities are securities exempt from state registration requirements by federal law (the Securities Act of 1933); states retain the right to require filing of notices of the sales, along with a fee. Nebraska currently does so. The amendments provide authority to the director to require issuers of federal covered securities to submit to the department any documents, including amendments, which the issuer is required to file with the federal Securities and Exchange Commission.

Section 3 provides for repealers of the amendatory sections.

The bill passed 45-0-4 on February 18, 2016 and was approved by the Governor on February 24, 2016.

SOCIAL SECURITY NUMBERS

LB115 (Scheer) Prohibit certain actions related to social security numbers (2015)

Left in Committee

This bill would enact a new section to provide that no individual shall be required to disclose or furnish his or her social security number or shall be refused any service, privilege, or right because he or she refuses to disclose or furnish his or her social security number. The bill would provide exceptions for when: the individual gives consent; the social security number is required by federal, state, or local law; or the social security number is used for a criminal history background check by an employer or volunteer service organization.

UNCLAIMED PROPERTY

LB873 (Murante) Authorize escheatment to the state of unclaimed United States Savings Bonds as prescribed (2016)

Left in Committee

This bill would enact a new section in the Uniform Disposition of Unclaimed Property Act to provide that United States Savings Bonds which are unclaimed property shall escheat to the State of Nebraska five years after becoming unclaimed property and all property rights to the savings bonds or proceeds from them shall vest solely in the State of Nebraska. The bill would provide that within 180 days after the five-year period, if no person has made a claim for the savings bonds or their proceeds, the State Treasurer shall commence a civil action in Lancaster County District Court for a determination that the savings bonds shall escheat to the State of Nebraska.

UNIFORM COMMERCIAL CODE

LB759e (Scheer) Change provisions relating to stop-payment orders (2016)

Enacted

Effective February 25, 2016

This bill amends Uniform Commercial Code (UCC) Section 4-403 to allow confirmation or renewal of a stop-payment order to be provided in a “record” rather than in a “writing.”

A “record” is defined in UCC Section 1-201(31) as “information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.”

The bill passed 45-0-4 with emergency clause on February 18, 2016 and was approved by the Governor on February 24, 2016.

**BANKING, COMMERCE AND INSURANCE COMMITTEE
INTERIM STUDY RESOLUTIONS
2016**

- LR430 (Scheer) Interim study to examine whether the Nebraska Banking Act should be updated
- LR431 (Scheer) Interim study to examine whether the Securities Act of Nebraska should be updated
- LR493 (Scheer) Interim study to examine whether the Nebraska Appraisal Management Company Registration Act should be updated
- LR508 (B. Harr) Interim study to examine possible changes to the Nebraska Model Business Corporation Act
- LR521 (Fox) Interim study to examine the business practices of pharmacy benefit managers as those practices relate to such managers' arrangements with private entities, insurers, pharmacies, and the State of Nebraska
- LR554 (Kolterman) Interim study to examine information regarding air ambulance costs
- LR591 (Hadley) Interim study to examine and make recommendations on improving health care coverage plans available to Nebraska small businesses with fifty or less employees

REPORT ON THE PRIORITIZING
OF INTERIM STUDY RESOLUTIONS
Pursuant to Rule 4, Section 3(c)

COMMITTEE: Banking, Commerce and Insurance DATE: April 6, 2016

The following resolutions were referred to the Committee on Banking, Commerce and Insurance. The committee has prioritized the resolutions in the following order:

Resolution No.	Subject
LR430	Interim study to examine whether the Nebraska Banking Act should be updated
LR431	Interim study to examine whether the Securities Act of Nebraska should be updated
LR 493	Interim study to examine whether the Nebraska Appraisal Management Company Registration Act should be updated
LR508	Interim study to examine possible changes to the Nebraska Model Business Corporation Act
LR521	Interim study to examine the business practices of pharmacy benefit managers as those practices relate to such managers' arrangements with private entities, insurers, pharmacies, and the State of Nebraska
LR554	Interim study to examine information regarding air ambulance costs
LR591	Interim study to examine and make recommendations on improving health care coverage plans available to Nebraska small businesses with fifty or less employees